

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE WORLD TRADE CENTER  
DISASTER SITE LITIGATION

JOSEPH MORELLI and ANN MORELLI

21 MC 100 (AKH) (ECF)

07 CV <sup>Docket No.</sup> 7518

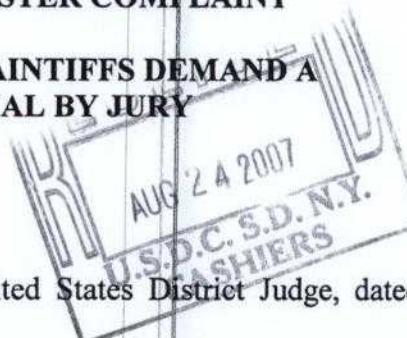
Plaintiff(s),

-against-

THE CITY OF NEW YORK, and  
1 WORLD TRADE CENTER, et al,  
Defendants.

CHECK-OFF ("SHORT  
FORM") COMPLAINT  
RELATED TO THE  
MASTER COMPLAINT

PLAINTIFFS DEMAND A  
TRIAL BY JURY



By Order of the Honorable Alvin K. Hellerstein, United States District Judge, dated February 2, 2005, ("the Order"), a Master Complaint for all Plaintiffs was filed on May 12, 2005, as part of Case Management Order Number Four, which was signed and dated on May 12, 2005.

#### NOTICE OF ADOPTION

All headings and paragraphs in the Master Complaint are applicable to and are adopted by the instant Plaintiff(s) as if fully set forth herein in addition to those paragraphs specific to the individual Plaintiff(s), which are listed below. These are marked with an "X" if applicable to the instant Plaintiff(s), and specific case information is set forth, as needed, below.

Plaintiffs, JOSEPH MORELLI and ANN MORELLI, by their attorneys DOUGLAS & LONDON, P.C., complaining of Defendant(s), respectfully allege:

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## I. PARTIES

### A. PLAINTIFF(S)

1.  Plaintiff, JOSEPH MORELLI (hereinafter the "Injured Plaintiff"), is an individual and a citizen of the State of New York residing at 27 Sal Court, Bohemia, New York 11716.

(OR)

2. Alternatively,

A.  Plaintiff, JOSEPH MORELLI (hereinafter the "Injured Plaintiff"), is an individual and a citizen of the State of \_\_\_\_\_ residing at \_\_\_\_\_.

B.  \_\_\_\_\_ as the \_\_\_\_\_ of Decedent \_\_\_\_\_, brings this claim in his (her) capacity as Administrator of the Estate of \_\_\_\_\_.

3.  Plaintiff, ANN MORELLI (hereinafter the "Derivative Plaintiff"), is a citizen of the State of New York residing at 27 Sal Court, Bohemia, New York 11716, and has the following relationship to the Injured Plaintiff:

SPOUSE: at all relevant times herein, is and has been lawfully married to Plaintiff JOSEPH MORELLI, and brings this derivative action for her loss due to the injuries sustained by her husband, Plaintiff JOSEPH MORELLI.

Parent

Child

Other: \_\_\_\_\_

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4. In the period from September 11, 2001, until on or about November 2001 the Injured Plaintiff worked for the New York City Department of Environmental Protection as a pipe caulk at:

i.  The World Trade Center Site

1. Location(s) (i.e., building, quadrant, etc.) Based upon information known at this time, Plaintiff worked throughout the four quadrants;
2. From on or about September 11, 2001, until on or about November 2001;
3. Approximately 7 hours per day; for
4. Approximately 81 days total.

ii.  The New York City Medical Examiner's Office

1. From on or about \_\_\_\_\_, until on or about \_\_\_\_\_;
2. Approximately \_\_\_\_\_ hours per day; for
3. Approximately \_\_\_\_\_ days total.

iii.  The Fresh Kills Landfill

1. From on or about \_\_\_\_\_, until on or about \_\_\_\_\_;
2. Approximately \_\_\_\_\_ hours per day; for
3. Approximately \_\_\_\_\_ days total.

iv.  **Other:**\* For injured plaintiffs who worked at Non-WTC Site building or location. The Injured Plaintiff worked at the address/location, for the dates alleged, for the hours per day, for the total days, and for the employer, as specified below:

1. From on or about \_\_\_\_\_, until on or about \_\_\_\_\_;
2. Approximately \_\_\_\_\_ hours per day; for
3. Approximately \_\_\_\_\_ days total.
4. Name and Address of Non-WTC Site Building/Worksite:  
\_\_\_\_\_

\*Continue this information on a separate sheet of paper if necessary.

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*If more space is needed to specify "Other" locations, please annex a separate sheet of paper with the information.*

5. Injured Plaintiff

- Was exposed to and breathed noxious fumes on all dates, at the site(s) indicated above;
- Was exposed to and inhaled or ingested toxic substances and particulates on all dates at the site(s) indicated above;
- Was exposed to and inhaled or absorbed or touched toxic or caustic substances on all dates at the site(s) indicated above;
- Other:  
Not yet determined.

6. Injured Plaintiff

- Has not made a claim to the Victim Compensation Fund. Pursuant to §405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. §40101, the issue of waiver is inapplicable.
- Made a claim to the Victim Compensation Fund that was denied. Pursuant to §405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. §40101, the issue of waiver is inapplicable.
- Made a claim to the Victim Compensation Fund that was subsequently withdrawn by Ground-Zero Plaintiff. Pursuant to §405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. §40101, the issue of waiver is inapplicable.
- Made a claim to the Victim Compensation Fund that was granted. Pursuant to §405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. §40101, Ground-Zero Plaintiff has waived her/his right(s) to pursue any further legal action for the injuries identified in said claim.

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**B. DEFENDANT(S)**

The following is a list of all Defendant(s) named in the Master Complaint. If checked, all paragraphs pertaining to that Defendant are deemed pleaded herein.

THE CITY OF NEW YORK ("CITY")

A Notice of Claim was timely filed and served on \_\_\_\_\_ and

Pursuant to General Municipal Law §50-h the CITY held a hearing on or about \_\_\_\_\_; and

The CITY has yet to hold a hearing as required by General Municipal Law §50-h; and

More than thirty days have passed and the CITY has not adjusted the claim.

(AND/OR)

An Order to Show Cause application to:

deem Plaintiff's Notice of Claim timely filed, or in the alternative to grant Plaintiffs' leave to file a late Notice of Claim *Nunc Pro Tunc* has been filed and a determination:

for leave to file a late Notice of Claim *Nunc Pro Tunc* has been filed and a determination:

is pending

Granting petition was made on \_\_\_\_\_.

Denying petition was made on \_\_\_\_\_.

PORT AUTHORITY OF NEW YORK AND NEW JERSEY

A Notice of Claim was filed and served pursuant to Chapter 179, §7 of The Unconsolidated Laws of the State of New York on August 6, 2007;

More than sixty days have elapsed since the Notice of Claim was filed, and

the Port Authority has adjusted this claim.

the Port Authority has not adjusted this claim.

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- 1 WORLD TRADE CENTER, LLC
- 1 WTC HOLDINGS, LLC
- 2 WORLD TRADE CENTER, LLC
- 2 WTC HOLDINGS, LLC
- 4 WORLD TRADE CENTER, LLC
- 4 WTC HOLDINGS, LLC
- 5 WORLD TRADE CENTER, LLC
- 5 WTC HOLDINGS, LLC
- AMEC CONSTRUCTION MANAGEMENT, INC.
- BECHTEL ASSOCIATES PROFESSIONAL CORPORATION
- BECHTEL CONSTRUCTION, INC.
- BECHTEL CORPORATION
- BECHTEL ENVIRONMENTAL, INC.
- BOVIS HOLDINGS LIMITED
- BOVIS INTERNATIONAL, INC.
- BOVIS LEND LEASE, INC.
- BOVIS LEND LEASE INTERIORS, INC.
- BOVIS LEND LEASE LMB, INC.
- CONSOLIDATED EDISON COMMUNCIATIONS HOLDING COMPANY, INC.
- CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
- CONSOLIDATED EDISON DEVELOPMENT, INC.
- CONSOLIDATED EDISON ENERGY, INC.
- CONSOLIDATED EDISON INC.
- CONSOLIDATED EDISON SOLUTIONS, INC.
- LIBERTY MUTUAL MANAGED CARE, INC.
- PLAZA CONSTRUCTION CORP.
- PLAZA CONSTRUCTION MANAGEMENT CORP.
- SILVERSTEIN PROPERTIES
- SILVERSTEIN PROPERTIES, INC.
- SILVERSTEIN WTC FACILITY MANAGER, LLC

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- SILVERSTEIN WTC, LLC
- SILVERSTEIN WTC MANAGEMENT CO., LLC
- SILVERSTEIN WTC PROPERTIES, LLC
- TISHMAN CONSTRUCTION CORPORATION OF MANHATTAN
- TISHMAN CONSTRUCTION CORPORATION OF NEW YORK
- TULLY CONSTRUCTION CO., INC.
- TULLY CONSTRUCTION COMPANY
- TULLY CONSTRUCTION CORP.
- TULLY ENVIRONMENTAL INC.
- TULLY INDUSTRIES INC.
- TURNER CONSTRUCTION CO.
- TURNER CONSTRUCTION COMPANY
- TURNER CONSTRUCTION INTERNATIONAL, LLC
- TURNER/PLAZA, A JOINT VENTURE
- WESTFIELD AMERCIA, INC.
- WESTFIELD CORPORATION, INC.
- WESTFIELD WTC, LLC, NOW KNOWN AS WTC RETAIL, LLC
- WESTFIELD WTC HOLDING, LLC
- WORLD TRADE CENTER PROPERTIES, LLC
- OTHER: \_\_\_\_\_ (If this box is checked, you must include the additional pleading paragraphs specifically setting forth the Plaintiff(s)' claims against this Defendant on a separate page attached as Addendum A.)
- Non-WTC Site Building Owner  
Name: \_\_\_\_\_  
Business/Service Address: \_\_\_\_\_  
Building/Worksite Address: \_\_\_\_\_
- Non-WTC Site Lessee  
Name: \_\_\_\_\_  
Business/Service Address: \_\_\_\_\_  
Building/Worksite Address: \_\_\_\_\_

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Non-WTC Site Building Management Agent

Name: \_\_\_\_\_

Business/Service Address: \_\_\_\_\_

Building/Worksite Address: \_\_\_\_\_

## II. JURISDICTION

The Court's jurisdiction over the subject matter of this action is:

- Founded upon Federal Question Jurisdiction; specifically
  - Air Transportation Safety & System Stabilization Act of 2001, (or)
  - Federal Officers Jurisdiction, (or)
  - Other (specify): \_\_\_\_\_
- Contested, but the Court has already determined that it has removal jurisdiction over this action, pursuant to 28 U.S.C. §1441.

## III. CAUSES OF ACTION

Plaintiff(s) seeks damages against the above-named defendants based upon the following theories of liability, and asserts each element necessary to establish such a claim under the applicable substantive law:

- Breach of the defendants' duties and obligations pursuant to the New York State Labor Law(s) including §§200 and 240
- Breach of the defendants' duties and obligations pursuant to the New York State Labor Law §241(6)
- Pursuant to New York General Municipal Law §205-a
- Pursuant to New York General Municipal Law §205-e
- Common Law Negligence
- Medical Monitoring
- Fear of Cancer

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Fraud and Misrepresentation

Air Quality;

Effectiveness of Mask Provided;

Effectiveness of Other Safety Equipment Provided  
(specify: \_\_\_\_\_);

Other (specify): \_\_\_\_\_

Wrongful Death

Loss of Services/Loss of Consortium for Derivate Plaintiff

Other: \_\_\_\_\_

#### **IV. CAUSATION, INJURY AND DAMAGE**

1. As a direct and proximate result of defendant's culpable actions in the rescue and/or recovery and/or construction, renovation, alteration, demolition and all work performed at the premises, the Injured Plaintiff sustained (including, but not limited to) the following injuries:

Abdominal Pain  
Date of Onset: \_\_\_\_\_  
Date physician first connected this injury to WTC work: \_\_\_\_\_

Asthma  
Date of Onset: \_\_\_\_\_  
Date physician first connected this injury to WTC work: \_\_\_\_\_

Brain Tumor  
Date of Onset: \_\_\_\_\_  
Date physician first connected this injury to WTC work: \_\_\_\_\_

Burns  
Date of Onset: \_\_\_\_\_  
Date physician first connected this injury to WTC work: \_\_\_\_\_

Chronic Bronchitis  
Date of Onset: \_\_\_\_\_  
Date physician first connected this injury to WTC work: \_\_\_\_\_

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Chronic Cough

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Chronic Obstructive Lung Disease

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Dermatitis

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Fear of Cancer

Date of Onset: May 23, 2006

Date physician first connected this injury to WTC work: To be supplied at a later date.

Gastric Reflux

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Hypertension

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Indigestion

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Insomnia

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Leukemia

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Lung Cancer

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Lymphoma

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

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Nausea

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Pulmonary Fibrosis

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Shortness of Breath

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Sinusitis

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Reactive Airway Disease

Date of Onset: \_\_\_\_\_

Date physician first connected this injury to WTC work: \_\_\_\_\_

Other: Restrictive Lung Disease

Date of Onset: May 23, 2006

Date physician first connected this injury to WTC work: To be supplied at a later date.

*NOTE: The foregoing is NOT an exhaustive list of injuries that may be alleged.*

2. As a direct and proximate result of the injuries identified in paragraph "1", above, the Ground-Zero Plaintiff has in the past suffered and/or will in the future suffer the following compensable damages:

Pain and suffering

Loss of the pleasures of life

Loss of earnings and/or impairment of earning capacity

Loss of retirement benefits/diminution of retirement benefits

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Expenses for medical care, treatment and rehabilitation

Other:

Mental Anguish

Disability

Medical Monitoring

Other: \_\_\_\_\_

3. As a direct and proximate result of the injuries described *supra*, the derivative plaintiff(s), if any, have in the past suffered and/or will in the future suffer a loss of the love, society, companionship, services, affection, and support of the plaintiff and such other losses, injuries and damages for which compensation is legally appropriate.

**WHEREFORE**, Plaintiffs respectfully pray that the Court enter judgment in their favor and against Defendant(s) for damages, costs of suit and such other, further and different relief as may be just and appropriate.

**Plaintiffs demand that all issues of fact in this case be tried before a properly empanelled jury.**

Dated: New York, New York  
August 20, 2007

Yours, etc.,

DOUGLAS & LONDON, P.C.

BY:

~~MICHAEL A. LONDON (ML-7510)~~  
Attorney for Plaintiffs  
111 John Street, Ste 1400  
New York, New York 10038  
(212) 566-7500

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\* Also admitted in NJ  
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August 24, 2007

*So delayed  
(see p. 2)*

*9-5-07*

*Alvin K. Hellerstein*

**VIA FEDERAL EXPRESS**  
Honorable Alvin K. Hellerstein  
U.S. District Court  
Southern District of New York  
500 Pearl Street  
Room 1015  
New York, NY 10007

**Re: Joseph Morelli and Ann Morelli vs. The City of New York, et al.**  
21 MOL 100  
MC

Dear Judge Hellerstein:

This firm represents the plaintiffs in the above-referenced matter. We write to the Court today respectfully requesting that your Honor deem this case timely filed as of August 21, 2007.

On August 21, 2007 our office filed a Summons and Complaint in the above-referenced matter with the Clerk of Court for the Southern District of New York. We received file-stamped copies of the Summons and Complaint at that time.

Unfortunately, yesterday, we received a note from the Clerk of the Court advising us that the Summons and Complaint were being returned to our office and apparently rejected for filing on the grounds that the Complaint lacked an original signature of the attorney of record. The file-stamped date of August 21, 2007 had been erased by the Clerk via white-out. (Attached as Exhibit A is the Summons and Complaint with the attached Civil Cover Sheet that was filed with the Court on August 21, 2007, and subsequently rejected.)

Hon. Alvin K. Hellerstein  
August 24, 2007  
Page 2

Our office immediately investigated the matter to determine why a copy of the Complaint, as opposed to the original, had been filed with the Court. It appears that on August 21, 2007 the original and copies of the Complaint had been brought to the Court for filing and all of these documents were file-stamped and dated for August 21, 2007. Regrettably, the copy of the Complaint was inadvertently accepted for filing with the Court, and the original was returned to our office. (Attached as Exhibit B is the original Complaint file-stamped and dated for August 21, 2007.)

The issue of the filing date of the Complaint being August 21, 2007 is very important to us and the plaintiffs.

Accordingly, given the facts as set out above, we were advised by the Clerk's office to write Your Honor, and thus respectfully request that the Court deem this case filed as of August 21, 2007.<sup>1</sup>

I thank the Court for its time and courtesy.

Very truly yours,

DOUGLAS & LONDON, P.C.

Michael A. London  
(ML-7510)

Enclosures

<sup>1</sup> Nevertheless, we re-filed the case on August 24, 2007, but we still request that the Court deem this case as filed on August 21, 2007.